

GENERAL ROAD LAW

Act of Jun. 13, 1836, P.L. 551, No. 169

Cl. 36

AN ACT

Relating to roads, highways and bridges.

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Section 1. Appointment of viewers

The court of quarter sessions of every county of the Commonwealth, on being petitioned to grant a view for a road within the respective county, shall have power and are hereby required, in open court, to appoint, as often as may be needful, three persons, qualified as hereinafter is provided, to view the ground proposed for such road, and make report of their proceedings to the respective court at the next term thereof: Provided, That the provisions of this act, relative to the appointment of viewers to lay out roads and to assess damages, shall not extend to the City and County of Philadelphia, hereinafter specially provided for. 1836, June 13, P.L. 551, Sec. 1; 1911, April 27, P.L. 95, Sec. 1.

Section 2. Duties of viewers

The persons appointed as aforesaid, shall view such ground, and if they shall agree that there is occasion for a road, they shall proceed to lay out the same, having respect to the shortest distance, and the best ground for a road, and in such manner as shall do the least injury to private property, and also be, as far as practicable, agreeable to the desire of the petitioners. 1836, June 13, P.L. 551, Sec. 2.

Section 3. Report of viewers

The viewers as aforesaid, shall make report at the next term of the said court, and in the said report shall state particularly: first, who of them were present at the view; second, whether they were severally sworn or affirmed; third whether the road desired be necessary for a public or private road; they shall also annex and return to the court a plot or draft thereof, stating the courses and distances, and noting briefly the improvements through which it may pass, and whenever practicable, the viewers shall lay out the said roads at an elevation not exceeding five degrees, except at the crossing of ravines and streams, where by moderate filling and bridging, the declination of the road may be preserved within that limit. 1836, June 13, P.L. 551, Sec. 3.

Section 4. Proceedings on report of viewers

If the court shall approve of the report of the viewers allowing a road, they shall direct of what breadth the road so approved shall be opened, and at the next court thereafter the whole proceedings shall be entered on record, and thenceforth such road shall be taken, deemed and allowed to be a lawful

public road or highway, or private road, as the case may be. 1836, June 13, P.L. 551, Sec. 4.

Section 5. Width of public and private roads; rights of owners as to slopes; townships of second class; payment for relocation of public service facilities

The breadth of a private road shall not in any case exceed twenty-five feet, and the width of a public road shall not be less than thirty-three feet and shall have such maximum width as shall be determined necessary in the judgment of the Secretary of Highways: Provided, That when the public road desired to be opened is in a built up section of any township of the second class of the type commonly known as an alley and is not an integral part of a through route, the minimum width shall be fifteen feet: And provided further, That where the breadth of a public road shall hereafter be fixed at more than one hundred and twenty feet and the right of way for such public highway has been acquired solely by the Federal Government and it shall become necessary to move or relocate any public service facilities, the cost and expenses incident to such removal or relocation shall be paid by the federal government. 1836, June 13, P.L. 551, Sec. 5; 1907, June 7, P.L. 452, Sec. 1; 1921, April 6, P.L. 111, Sec. 1; 1927, April 13, P.L. 184, Sec. 1; 1931, June 22, P.L. 676, Sec. 1; 1935, July 12, P.L. 745, Sec. 1; 1941, Aug. 6, P.L. 890, Sec. 1. As amended 1951, Sept. 29, P.L. 1635, Sec. 1, 1959, Nov. 19, P.L. 1540, Sec. 1.

Section 7. Appointment on petition

The owner of any land through which a public road shall be opened as aforesaid, may, within one year from the opening of the same, apply by petition, to the Court of Quarter Sessions of the proper county, setting forth the injury which he or she may have sustained thereby, and thereupon, the said court shall appoint six disinterested persons to view the premises and assess the damages, if any, which such petitioner may have sustained. 1836, June 13, P.L. 551, Sec. 7.

Section 8. Approval of report; payment of damages

The viewers so appointed, shall make report in writing to the next Court of Quarter Sessions, and if their report be approved by the court, the amount of damages awarded shall be paid by the County Treasurer out of the county stock, to the party entitled thereto. 1836, June 13, P.L. 551, Sec. 8.

Section 9. Benefits to be considered in assessing damages

In assessing the damages as aforesaid, the viewers shall take into consideration the advantages derived from such road passing through the land of the complainant. 1836, June 13, P.L. 551, Sec. 9.

Section 11. Proceedings to open private roads

The several Courts of Quarter Sessions shall, in open court as aforesaid, upon the petition of one or more persons, associations, partnerships, stock companies, or corporations, for a road from their respective lands or leaseholds to a highway or place of necessary public resort, or to any private way leading to a highway, or upon the petition of the chief executive officer of any executive or administrative department of the state government for a road from any public highway across any lands of any person, association, or corporation to the boundary line of any lands owned, controlled, or administered by the commonwealth, direct a view to be had of the place where such road is requested, and a report thereof to be made, in the same manner as is directed by the said act of thirteenth june, one thousand eight hundred and thirty-six. 1836, June 13, P.L. 551, Sec. 11; 1901, April 4, P.L. 65, no. 32, Sec. 1; 1927, April 28, P.L. 485, Sec.1.

Section 12. Proceedings on report of viewers

If it shall appear by the report of viewers to the court directing the view, that such road is necessary, the said court shall direct what breadth the road so reported shall be opened, and the proceedings in such cases shall be entered on record, as before directed, and thenceforth such road shall be deemed and taken to be a lawful private road. 1836, June 13, P.L. 551, Sec. 12.

Section 13. Gates

In all cases of a private road, it shall be lawful for the owners of the land over which the same may be laid out or authorized, to apply to the court aforesaid for leave to hang and maintain at their own expense, swinging gates across the road, and thereupon the court shall direct the viewers appointed to view such road, or in case the road has been already laid out, may appoint other viewers in manner aforesaid, to inquire and report whether the same may be done without much inconvenience to the persons using such road. 1836, June 13, P.L. 551, Sec. 13.

Section 14. When gates shall be erected

If it shall appear to the court that a gate or gates may be hung as aforesaid, according to the prayer of the party, without much inconvenience to the person or persons using such road, they shall decree accordingly, and in such decree they shall order and direct that such gate or gates be made and kept in repair, and made easy for passing, by the respective owners of said land. 1836, June 13, P.L. 551, Sec. 14.

Section 15. Repair of private roads

All private roads shall be opened, fenced and kept in repair by and at the expense of the person or persons respectively at whose request the same were granted and laid out, and by their heirs and assigns. 1836, June 13, P.L. 551, Sec. 15.

Section 16. Damages

The damages sustained by the owners of the land through which any private road may pass shall be estimated in the manner provided in the case of a public road, and shall be paid by the persons, associations, partnership, stock companies, corporations, or executive or administrative department of the commonwealth, at whose request the road was granted or laid out: Provided, that no such road shall be opened before the damages shall be fully paid. 1836, June 13, P.L. 551, Sec. 16; 1927, April 28, P.L. 485, Sec. 2.

Section 17. Use by others than petitioners

Whenever any person shall be desirous to make use of a private road laid out on the petition and at the expense of others, such person may apply by petition to the Court of Quarter Sessions of the respective county, to be admitted to participate in the privilege of the said road, and thereupon such court shall have power to determine what sum he shall contribute to the persons at whose expense the said road was laid out, and also what further sum he shall pay to the owners of the soil over which the said road was made, and upon the payment thereof, such person shall be entitled to equal rights and privileges, and be subject to like duties and liabilities with the original applicants for said road. 1836, June 13, P.L. 551, Sec. 17.

Section 18. Authority of courts

The courts aforesaid shall, within their respective counties, have authority, upon application to them by petition, to inquire of any to change or vacate the whole or any part of any private or public road which may have been laid out by authority of law, whenever the same shall become useless, inconvenient or

burthensome notwithstanding the fact that the vacation of a part of a public road results in leaving the remaining part or parts of the road with one of its termini at a point other than in a public highway or place of public resort: Provided, that the other terminus of each of the remaining parts of the road is in a public road and that each remaining part of the road is necessary for public travel or for the use of a property owner or owners located on such remaining part. The said courts shall proceed therein by views and reviews, in the manner provided for the laying out of public roads and highways. 1836, June 13, P.L. 551, Sec. 18. as amended, 1943, May 21, P.L. 458, Sec. 1.

Section 19. Vacating of roads not opened

Roads laid out and confirmed as aforesaid, but not opened, may be vacated and annulled upon the petition of a majority of the original petitioners for the said road, resident within the respective county, in the same manner as other roads may be vacated: Provided, that no person residing or owning land along the route of such road, shall in such case be a viewer or reviewer. 1836, June 13, P.L. 551, Sec. 19.

Section 20. Changes of State Roads

The said courts respectively, shall also have power in the manner aforesaid, to change, or supply by a new road, the route of any State road which may be laid out by direction of any act of assembly, within their respective counties, and thereupon to vacate so much of such State road as shall be supplied: Provided, that no change shall be allowed in any such road, which shall make the same of a greater ascent or descent than five degrees from a horizontal line. 1836, June 13, P.L. 551, Sec. 20.

Section 22. Exceptions to power of courts to vacate

Nothing in this act shall be construed to give authority to any of the courts of the Commonwealth to vacate any lane, street or highway within any city, borough, town plot, or any town or village laid out by the late Proprietaries or by any other person, and dedicated to the public use; not to vacate any cart-way laid out by the order of court, and not repairable at the charge of the public, nor shall such authority extend to any road, way or passage claimed by any person as a private right, nor to rivers or streams of water. 1836, June 13, P.L. 551, Sec. 22.

Section 23. Application to vacate

Every application to vacate any road as aforesaid, shall be in writing, and signed by the applicants; it shall set forth, in a clear and distinct manner, the situation and other circumstances of such road or highway, or of the part thereof which the applicants may desire to have vacated as aforesaid. 1836, June 13, P.L. 551, Sec. 23.

Section 24. When old roads shall be closed

Whenever the whole or any part of a road shall be changed or supplied, the same shall not be shut up or stopped until the road laid out to supply the place thereof shall be actually opened and made. 1836, June 13, P.L. 551, Sec. 24.

Section 25. Review.

In all cases of views for any purpose mentioned in this act, the respective court shall, on petition of any person interested, direct a second view or review for the same purpose: Provided, that application therefor be made at or before the next term of the said court, after the report upon the first view. 1836, June 13, P.L. 551, Sec. 25.

Section 26. County line roads and inter-county roads

Roads upon and along a line which divides two adjoining counties, and roads forming or intended to form a continuous highway from one county to another, may be laid out, or altered, or vacated in the manner provided in the case of other roads, except that the Court of Quarter Sessions of each county shall appoint three viewers, and that a report, as aforesaid, shall be made to each court, respectively, and that each court shall otherwise have and exercise concurrent jurisdiction therein.

1836, June 13, P.L. 551, Sec. 26; 1915, June 4, P.L. 816, Sec. 1.

Section 35. When a river, creek or rivulet over which it may be necessary to erect a bridge crosses a public road or highway, and the erecting of such bridge requires more expense than it is reasonable that one or two adjoining townships should bear, the court having jurisdiction as aforesaid, shall, on the representation of the supervisors, or on the petition of any of the inhabitants of the respective townships, order a view, in the manner provided for in the case of roads, and if on the report of viewers, it shall appear to the court, grand jury, and commissioners of the county, that such bridge is necessary, and would be too expensive for such township or townships, it shall be entered on record as a county bridge.

Section 36. Whenever a bridge shall be authorized and recorded as a county bridge, it shall be the duty of the commissioners to procure an estimate of the cost thereof, and provide in the county levies, the monies necessary to defray the same, and proceed to have such bridge erected by contract, or otherwise, as shall seem to them expedient.

Section 37. Viewers of the site of a bridge appointed as aforesaid, shall have authority by virtue of their appointment, to report also whether any change in the course or bed of the road to be connected therewith, will be necessary, in order to the erection of such bridge at the most suitable place, or at the least expense, or in the best manner, and the same being approved by a majority of the commissioners of the county, and also by the court, such road shall be altered accordingly.

Section 38. Provided nevertheless, That the viewers shall cause every such variation to be accurately surveyed, and a plot thereof to be made and returned with their report.

Section 39. Every bridge erected by the commissioners of any county, or under contract with them, shall be inspected by six fit persons, to be appointed by the court of Quarter Sessions of the respective county, and report thereof shall be made by them to the said court.

Section 40. If any such bridge shall be approved by the court, and the same shall have been erected under contract with the commissioners as aforesaid, the money shall be paid agreeably to such contract.

Section 41. If the persons appointed to inspect any bridge erected by contract as aforesaid, shall not approve of the same, they shall report to the court, what sum, in their judgment, ought to be deducted from the sum stipulated in such contract, and thereupon, the court shall grant a rule upon the builder or contractor, to shew cause against the said report, at a time and place in such rule to be named.

Section 42. After the service and return of such rule, it shall be lawful for the builder or contractor, to file a declaration or statement in the court of Common Pleas of the respective county, upon the contract made by him with the commissioners aforesaid, and thereupon proceed to trial, in due course, in like manner as if an action had been commenced by him upon such contract, against the county, or, at his election,

he may shew cause against the said report, and thereupon, the court shall determine the matter as justice and equity shall require.

Section 43. When any such bridge shall have been erected by the commissioners of the county, or under their superintendence, if the same shall not be approved by the persons appointed, as aforesaid, to inspect the same, they shall report in what respect such bridge is deficient, and whether or not the same has occurred through the default, neglect or official misconduct of the said commissioners, or any of them, and what in their judgment is the value of such bridge, and thereupon, the court shall in like manner, grant a rule upon the commissioners to shew cause against such report.

Section 44. After the service and return of such rule, it shall be lawful for the commissioners to have an issue directed, upon the said report, in the matters aforesaid, to the court of Common Pleas of the respective county, to be tried by a jury, or, at their election, they may shew cause against the same, and thereupon, the court shall determine the matter in a summary way.

Section 45. If it shall appear upon the trial of such issue, or upon investigation by the court as aforesaid, that such bridge is insufficient, or that it has been erected at an expense greater than its value, through the neglect or official misconduct of any one or more of the said commissioners, it shall be lawful for the county to recover, against such delinquent commissioner or commissioners, the damages sustained by reason of the default of them or either of them as aforesaid, respectively.

Section 46. Bridges over any river, creek, or rivulet, being on the line of adjoining counties, or located within one-fourth of a mile therefrom, and necessary for the accommodation of the inhabitants of both counties, shall be authorized in the manner provided in the case of other county bridges, except that the court of quarter sessions of each county shall appoint three of the viewers, and that a report as aforesaid be made to the said courts, respectively, and that the said courts shall, together with the grand juries and commissioners of the respective counties, in all other respects have and exercise a concurrent jurisdiction and discretion therein: Provided, however, That nothing herein contained shall prevent any county in this Commonwealth from erecting a bridge at any point wholly within the limits of said county, without any view, or other proceedings whatsoever, in any adjoining county.

Section 47. Every such bridge shall be constructed by contract with the commissioners of both the said counties; it shall be inspected in the manner aforesaid, by persons appointed by the court of quarter sessions of either of the said counties; it shall be paid for, maintained, and kept in repair by said commissioners, the cost and expense of which joint construction, maintenance, and repair shall be paid by said counties, respectively, in the proportion of the population thereof as ascertained at the last decennial census, and if either county shall necessarily incur more than its due proportion of such charge, it shall be lawful for such county to recover from the other county the excess so incurred, in an action to be founded on this act: Provided, This shall apply only to counties having a population of two hundred thousand and under, and, in such counties, to bridges three hundred feet (300) in length and over.

Section 48. Builders may take materials from adjoining lands

It shall be lawful for the undertaker of any public bridge, to enter upon the lands and enclosures near to the place where such bridge is to be built, for the purpose of searching for and procuring the materials necessary for the building of such bridge, in like manner, and with like authority, as is hereinbefore provided in behalf of the supervisors of the public roads in the like case. 1836, June 13, P.L. 551, Sec. 48.

Section 49. Damages

If the undertaker of such bridge and the owner of such materials cannot agree upon the sum to be paid for the damages, which may be done by the taking of such materials, such damages shall be ascertained in the manner provided in the case of materials taken by the supervisors of the public roads. 1836, June 13, P.L. 551, Sec. 49.

Section 50. Payment or security of damages

The damages shall be ascertained and paid, or secured to be paid, to the satisfaction of the owner of such materials, before the same may be dug, quarried, or removed by such undertaker. 1836, June 13, P.L. 551, Sec. 50.

Section 51. Who may be viewers

Any discreet and reputable citizen qualified to vote for members of the Legislature, may be appointed a viewer for any of the purposes mentioned in this act, but except it be otherwise especially provided, the court appointing viewers, shall select them as far as practicable, from persons residing near the place to be viewed. 1836, June 13, P.L. 551, Sec. 51.

Section 53. Viewers to be sworn

All viewers and reviewers appointed for any purpose mentioned in this act, also all persons appointed to inspect any bridge as aforesaid, shall, before they proceed to the duties of their appointment respectively, make oath or affirmation to perform the same impartially, and according to the best of their judgment, which oath or affirmation may be administered to them by any magistrate of the respective county, or by any one of their number. 1836, June 13, P.L. 551, Sec. 53.

Section 54. Expense of views

The expense of views of private roads, and the expense of any review, or of any view subsequent to a review of a private or public road, shall be wholly paid by the persons applying for the same. 1836, June 13, P.L. 551, Sec. 54.

Section 55. Expense of view to assess damages

The expense of a view to assess the damages sustained by the owner of land taken as aforesaid, for a public road, shall be paid by the respective county, and the expense of such view in the case of a private road, shall be paid by the person or persons at whose instance the same was allowed. 1836, June 13, P.L. 551, Sec. 55.

Section 56. The expense of the inspection or view of a county bridge as aforesaid, shall be paid by the respective county, but if such bridge shall not be approved, the said expense shall be recoverable by such county, as damages against the delinquent commissioner or contractor.

Section 57. Expense of view for a gate

In case of a separate view directed upon an application for leave to hang and maintain gates across a private road, as aforesaid, the expense of such view shall be paid by the applicants. 1836, June 13, P.L. 552, Sec. 57.

Section 58. Surveyor to be paid by applicant

In all cases of a view or review, or of any view subsequent to a review of a road, a surveyor shall be found and paid by the persons applying for such views. 1836, June 13, P.L. 551, Sec. 58.

Section 65. Extortion from travelers by road or highway workmen

If any person working upon any road or highway, or if any one in company with such person, shall ask money or reward, or by any means whatever, shall extort, or endeavor to extort, any money, drink, or other thing, of or from any person traveling upon or near such road or highway, the person so offending shall, for every such offence, forfeit and pay a sum not exceeding five dollars. 1836, June 13, P.L. 551, Sec. 65.

Section 70. Crossing bridge with horse faster than a walk

If any person shall wilfully ride, walk or lead, or cause another person to ride, drive or lead, any horse or other beast of burden, faster than a walk, when crossing any wooden bridge having an arch of the length or span of forty-five feet or upwards, such persons shall, for every such offense, forfeit and pay a sum not less than five dollars, nor more than thirty dollars: Provided nevertheless, That notice of the provisions of this section be set up in the manner hereinbefore required. 1836, June 13, P.L. 551, Sec. 70.

Section 71. Driving cattle faster than a walk

If any person shall wilfully drive, or cause to be driven, any horned cattle, faster than a walk, when crossing any such bridge, such person shall, for every such offence, forfeit and pay a sum not less than five dollars, nor more than thirty dollars: Provided nevertheless, that notice hereof be set up in the manner hereinbefore required. 1836, June 13, P.L. 551, Sec. 71.

Section 72. Carrying fire over a bridge

If any person shall carry fire over such bridge, except in a lantern, or in some vessel in which it will be fully secured, such person shall forfeit and pay the sum of five dollars: Provided nevertheless, that notice of the provisions of this section be set up in the manner hereinbefore required. 1836, June 13, P.L. 551, Sec. 72.

Section 75. Recovery of penalty

All fines and pecuniary penalties which may be incurred under any of the provisions of this act shall, unless it be otherwise especially provided, be recoverable in the name of the Commonwealth, at the instance of any person who will sue therefor, in the same manner as debts of like amount are recoverable, with costs of suit, and one moiety thereof shall be paid to the person suing for and recovering the same, and the residue shall be paid into the treasury of the respective townships, for the use of the supervisors of the public roads. 1836, June 13, P.L. 551, Sec. 75.